

ORDINANCE NO. 91- 27

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY FLORIDA, AMENDING ORDINANCE NO. 88-4 ENTITLED "PALM BEACH COUNTY MINORITY/WOMEN BUSINESS ENTERPRISE ORDINANCE; CREATING A REBUTTABLE PRESUMPTION OF AN EXERCISE OF GOOD FAITH EFFORTS BY VENDORS/SUBCONTRACTORS WHO HAVE ACHIEVED GOALS OR ARE CERTIFIED AS MINORITY OR WOMEN BUSINESSES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Palm Beach County is firmly committed to the principles of equal opportunity whereby all businesses may fully participate in the contracting and procurement processes of County government; and

WHEREAS, Palm Beach County wishes to insure that all businesses, regardless of race, color, national origin, religion, or gender, are afforded equal access to the opportunity of supplying the goods and services required by the County; and

WHEREAS, Palm Beach County adopted Ordinance 88-4 to assure that all businesses including minority and women businesses are afforded fair and equal treatment by County government in the competitive process of supply goods and services to the County; and

WHEREAS, the Board of County Commissioners has authorized the County Administrator through the Office of Equal Opportunity to implement and administer the program development provided for under this Ordinance; and

WHEREAS, the Board of County Commissioners on April 9, 1991 accepted the results of the Disparity Study prepared by MGT of America, Inc.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA that:

Section IV of the Palm Beach County Minority/Women Business Enterprise Ordinance is amended to read:

SECTION IV. GOOD FAITH EFFORTS.

The following criteria shall be considered in the determination of whether "good faith efforts" have been made by Palm Beach County:

- A. Whether pre-solicitation or pre-bid meetings to inform MBE/WBEs of contracting opportunities were held and

adequate follow-up was utilized;

- B. Whether contracting opportunities were advertised in general circulation, trade and minority-oriented media;
- C. Whether written notice to a reasonable number of MBE/WBES were provided in sufficient time to allow them to participate;
- D. Whether projects/contracts were divided into smaller units, areas or quantities (including dividing such projects or contracts into economically feasible units to facilitate maximum participation;
- E. Whether adequate information about plans, specifications and/or contracting requirements were provided;
- F. Whether minority organizations and contractors' groups, including State and local offices with knowledge concerning the availability of MBE/WBES or with the means of locating such MBE/WBES were used effectively;
- G. Whether good faith negotiations with all interested and qualified businesses were conducted in an effort to encourage MBE/WBE participation;
- H. Whether efforts were made to provide assistance to obtain bonding, lines of credit and insurance.

In making good faith efforts to achieve the maximum use of MBE/WBES, the County shall also require that contractors/vendors contracting with/doing business with the County shall make those good faith efforts cited above in paragraphs C, E, F, G, and H in employing/hiring subcontractors.

In those instances where the contractor/vendor has achieved the participation goal contained within the solicitation or bid documents through the use of certified M/WBES, there will be a rebuttable presumption that good faith efforts were exercised. A prime contractor certified as a MBE or WBE will be exempt from the requirements of an exercise of good faith efforts so long as the prime contractor performs at least 51% of the work with its own forces.

1 REPEAL OF LAWS IN CONFLICT

2 The policy established herein shall be consistent with
3 Ordinance 90-24, as amended, the Palm Beach County Purchasing
4 Ordinance. All local laws and ordinances applying to the
5 unincorporated area of Palm Beach County in conflict with any
6 provisions of this ordinance are hereby repealed to the extent it
7 conflicts with the specific subject matter of this Ordinance.

8 SEVERABILITY

9 If any section, paragraph, sentence, clause, phrase, or word
10 of this ordinance is for any reason held by the Court to be
11 unconstitutional, inoperative or void, such holding shall not
12 affect the remainder of this ordinance.

13 INCLUSION IN THE CODE OF LAWS AND ORDINANCES

14 The provisions of this ordinance shall become and be made a
15 part of the code of laws and ordinances of Palm Beach County,
16 Florida. The Sections of the ordinance may be remembered or
17 relettered to accomplish such, and the word "ordinance" may be
18 changed to "section," "article," or any other appropriate word.

19 EFFECTIVE DATE

20 The provisions of this ordinance shall become effective upon
21 receipt of acknowledgement by the Secretary of State.

22 APPROVED AND ADOPTED by the Board of County Commissioners of
23 Palm Beach County, Florida, on the 16 day of July,
24 1991.

25 APPROVED AS TO FORM AND
26 LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA, BY
ITS BOARD OF COUNTY
COMMISSIONERS

27
28 By Jimmy Dicks
29 COUNTY ATTORNEY

Karl Maus
CHAIR

30 Acknowledgement by the Department of State of the State of
31 Florida, on this, the 22nd day of July, 1991.

32 EFFECTIVE DATE: Acknowledgement from the Department of State
33 received on the 25th day of July, 1991, at 10:38
34 A.M., and filed in the Office of the Clerk of the Board of County
35 Commissioners of Palm Beach County, Florida.

JOHN B. DUNKLE, CLERK
Board of County Commissioners

By Katherine E. Hagan
DEPUTY CLERK

3 STATE OF FLORIDA, COUNTY OF PALM BEACH
I, JOHN B. DUNKLE, ex-officio Clerk of the
Board of County Commissioners certify this to
be a true and correct copy of the original filed in
my office on 7/26/91
DATED at West Palm Beach, FL on 7/30/91.
JOHN B. DUNKLE, Clerk,
By: Blue D.C.
Deputy Clerk